

# **Code of Virginia**

## **Effective July 1, 2008**

### **Title 63.2 - WELFARE (SOCIAL SERVICES).**

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#### **Chapter 12 – Adoption**

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### **§ 63.2-1200. Who may place children for adoption.**

A child may be placed for adoption by:

1. A licensed child-placing agency;
2. A local board;
3. The child's parent or legal guardian if the placement is a parental placement; and
4. Any agency outside the Commonwealth that is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates.

(1978, c. 730, § 63.1-220.1; 1985, c. 285; 1989, c. 647; 2000, c. 830, § 63.1-219.8; 2002, c. 747; 2004, c. 815; 2006, cc. 825, 848.)

### **§ 63.2-1201. Filing of petition for adoption; venue; jurisdiction; and proceedings.**

Proceedings for the adoption of a minor child and for a change of name of such child shall be instituted only by petition to a circuit court in the county or city in which the petitioner resides, in the county or city in which the child-placing agency that placed the child is located, or in the county or city in which a birth parent executed a consent pursuant to § 63.2-1233. Such petition may be filed by any natural person who resides in the Commonwealth, or who has custody of a child placed by a child-placing agency of the Commonwealth, or by an adopting parent of a child who was subject to a consent proceeding held pursuant to § 63.2-1233, or by intended parents who are parties to a surrogacy contract. The petition shall ask leave to adopt a minor child not legally the petitioner's by birth and, if it is so desired by the petitioner, also to change the name of such child. In the case of married persons, or persons who were previously married who are permitted to adopt a child under § 63.2-1201.1, the petition shall be the joint petition of the husband and wife or former spouses but, in the event the child to be adopted is legally the child by birth or adoption of one of the petitioners, such petitioner shall unite in the petition for the purpose of indicating consent to the prayer thereof only. If any procedural provision of this chapter applies to only one adoptive parent, then the court may waive the application of the procedural provision as to the spouse of the adoptive parent. The petition shall contain a full disclosure of the circumstances under which the child came to live, and is living, in the home of the petitioner. Each petition for adoption shall be signed by the petitioner as well as by counsel of record, if any. In any case in which the petition seeks the entry of an adoption order without referral for investigation, the petition shall be under oath.

A single petition for adoption under the provisions of this section shall be sufficient for the concurrent adoption by the same petitioners of two or more children who have the

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same birth parent or parents, and nothing in this section shall be construed as having heretofore required a separate petition for each of such children.

The petition for adoption, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, shall include an additional \$50 filing fee that shall be used to fund the Putative Father Registry established in Article 7 (§ 63.2-1249 et seq.) of this chapter.

A petition filed while the child is under 18 years of age shall not become invalid because the child reaches 18 years of age prior to the entry of a final order of adoption. Any final order of adoption entered pursuant to § 63.2-1213 after a child reaches 18 years of age, where the petition was filed prior to the child turning 18 years of age, shall have the same effect as if the child was under 18 years of age at the time the order was entered by the circuit court provided the court has obtained the consent of the adoptee.

(Code 1950, § 63-348; 1952, c. 550; 1954, c. 489; 1956, c. 300; 1964, c. 459; 1968, c. 578, § 63.1-221; 1970, c. 672; 1973, c. 406; 1975, c. 461; 1978, c. 730; 1983, c. 614; 1988, c. 882; 1989, c. 647; 1991, cc. 76, 602; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.9; 2002, c. 747; 2006, cc. 825, 848; 2007, cc. 606, 623; 2008, cc. 116, 868.)

### **§ 63.2-1201.1. Previously married persons who stood in loco parentis during the time of the marriage may adopt in the same manner as married persons.**

A. A man and woman previously married to each other who stood in loco parentis to a child during their marriage to each other, and who could have adopted or readopted the child pursuant to this chapter while married to each other, but whose marriage is void, has been annulled or has dissolved, may adopt or readopt the child pursuant to the provisions in this chapter that are applicable to married persons.

B. An individual previously married to a parent of a child by birth or adoption, and who stood in loco parentis to that child during the marriage, and who could have adopted the child pursuant to § 63.2-1241 during the marriage, may, with the consent of the prior spouse who is a parent of the child by birth or adoption, adopt the child, after the marriage has been dissolved, annulled or voided, pursuant to the provisions of this chapter that are applicable to step-parents.

C. Any person or persons seeking to adopt or readopt pursuant to this section may be permitted to do so even if they have remarried.

D. Nothing in this section shall be construed to permit any child to have more than two living parents by birth or adoption, who have legal rights and obligations in respect to the child, in the form of one father and one mother.

(2008, c. 868.)

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### **§ 63.2-1202. Parental, or agency, consent required; exceptions.**

A. No petition for adoption shall be granted, except as hereinafter provided in this section, unless written consent to the proposed adoption is filed with the petition. Such consent shall be in writing, signed under oath and acknowledged before an officer authorized by law to take acknowledgments. The consent of a birth parent for the adoption of his child placed directly by the birth parent shall be executed as provided in § 63.2-1233, and the circuit court may accept a certified copy of an order entered pursuant to § 63.2-1233 in satisfaction of all requirements of this section, provided the order clearly evidences compliance with the applicable notice and consent requirements of § 63.2-1233.

B. A birth parent who has not reached the age of 18 shall have legal capacity to give consent to adoption and perform all acts related to adoption, and shall be as fully bound thereby as if the birth parent had attained the age of 18 years.

C. Consent shall be executed:

1. By the birth mother and by any man who:

a. Is an acknowledged father under § 20-49.1;

b. Is an adjudicated father under § 20-49.8;

c. Is a presumed father under subsection D; or

d. Has registered with the Putative Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of this chapter.

Verification of compliance with the notice provisions of the Putative Father Registry shall be provided to the court.

2. By the child-placing agency or the local board having custody of the child, with right to place him for adoption, through court commitment or parental agreement as provided in § 63.2-900, 63.2-903 or 63.2-1221; or an agency outside the Commonwealth that is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates; and

3. By the child if he is 14 years of age or older, unless the circuit court finds that the best interests of the child will be served by not requiring such consent.

D. A man shall be presumed to be the father of a child if:

1. He and the mother of the child are married to each other and the child is born during the marriage;

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2. He and the mother of the child were married to each other and the child is born within 300 days of their date of separation, as evidenced by a written agreement or decree of separation, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce; or

3. Before the birth of the child, he and the mother of the child married each other in apparent compliance with the law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300 days of their date of separation, as evidenced by a written agreement or decree of separation, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce.

Such presumption may be rebutted by sufficient evidence that would establish by a preponderance of the evidence the paternity of another man or the impossibility or improbability of cohabitation with the birth mother for a period of at least 300 days prior to the birth of the child.

E. No consent shall be required of a birth father if he denies under oath and in writing the paternity of the child. Such denial of paternity may be withdrawn no more than 10 days after it is executed. Once the child is 10 days old, any executed denial of paternity is final and constitutes a waiver of all rights with respect to the adoption of the child and cannot be withdrawn.

F. No consent shall be required of the birth father of a child when the birth father is convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, and the child was conceived as a result of such violation.

G. No notice or consent shall be required of any person whose parental rights have been terminated by a court of competent jurisdiction, including foreign courts that have competent jurisdiction. No notice or consent is required of any birth parent of a child whose adoption was finalized in a foreign country or for whom a guardianship order was granted when the child was approved by the United States Citizenship and Immigration Services for purposes of adoption.

H. No consent shall be required of a birth parent who, without just cause, has neither visited nor contacted the child for a period of six months prior to the filing of the petition for adoption. The prospective adoptive parent(s) shall establish by clear and convincing evidence that the birth parent(s), without just cause, has neither visited nor contacted the child for a period of six months prior to the filing of the petition for adoption. This provision shall not infringe upon the birth parent's right to be noticed and heard on the allegation of abandonment.

I. A birth father of the child may consent to the termination of all of his parental rights prior to the birth of the child.

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J. The failure of the nonconsenting party to appear at any scheduled hearing, either in person or by counsel, after proper notice has been given to said party, shall constitute a waiver of any objection and right to consent to the adoption.

K. If a birth parent or legal guardian, executing a consent, entrustment, or other documents related to the adoption, cannot provide the identification required pursuant to § 47.1-14, the birth parent may execute a self-authenticating affidavit as to his identity subject to the penalties contained in § 63.2-1217.

(Code 1950, § 63-351; 1954, c. 489; 1956, c. 300; 1960, c. 331; 1962, c. 603; 1968, c. 578, § 63.1-225; 1972, cc. 73, 475, 823; 1974, c. 620; 1978, cc. 730, 735, 744; 1985, c. 18; 1986, c. 387; 1989, c. 647; 1993, c. 553; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.10; 2002, c. 747; 2005, c. 890; 2006, cc. 825, 848; 2007, cc. 606, 623.)

### **§ 63.2-1203. When consent is withheld or unobtainable.**

A. If, after consideration of the evidence, the circuit court finds that the valid consent of any person or agency whose consent is required is withheld contrary to the best interests of the child as set forth in § 63.2-1205, or is unobtainable, the circuit court may grant the petition without such consent:

1. Twenty-one days after personal service of notice of petition on the party or parties whose consent is required by this section; or
2. If personal service is unobtainable, ten days after the completion of the execution of an order of publication against the party or parties whose consent is required by this section concerning the petition; or
3. If the judge certifies on the record that the identity of any person whose consent is hereinabove required is not reasonably ascertainable.

An affidavit of the birth mother that the identity of the birth father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the circuit court that would refute such an affidavit. The absence of such an affidavit shall not be deemed evidence that the identity of the birth father is reasonably ascertainable. For purposes of determining whether the identity of the birth father is reasonably ascertainable, the standard of what is reasonable under the circumstances shall control, taking into account the relative interests of the child, the birth mother and the birth father.

B. If the child is not in the custody of a child-placing agency and both parents are deceased, the circuit court, after hearing evidence to that effect, may grant the petition without the filing of any consent.

(Code 1950, § 63-351; 1954, c. 489; 1956, c. 300; 1960, c. 331; 1962, c. 603; 1968, c. 578, § 63.1-225; 1972, cc. 73, 475, 823; 1974, c. 620; 1978, cc. 730, 735, 744; 1985, c.

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18; 1986, c. 387; 1989, c. 647; 1993, c. 553; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.11; 2002, c. 747.)

### **§ 63.2-1204. When consent is revocable; fraud or duress; mutual consent.**

Parental consent to an adoption shall be revocable prior to the final order of adoption (i) upon proof of fraud or duress or (ii) after placement of the child in an adoptive home, upon written, mutual consent of the birth parents and prospective adoptive parents.

(Code 1950, § 63-351; 1954, c. 489; 1956, c. 300; 1960, c. 331; 1962, c. 603; 1968, c. 578, § 63.1-225; 1972, cc. 73, 475, 823; 1974, c. 620; 1978, cc. 730, 735, 744; 1985, c. 18; 1986, c. 387; 1989, c. 647; 1993, c. 553; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.12; 2002, c. 747.)

### **§ 63.2-1205. Best interests of the child; standards for determining.**

In determining whether the valid consent of any person whose consent is required is withheld contrary to the best interests of the child, or is unobtainable, the circuit court or juvenile and domestic relations district court, as the case may be, shall consider whether granting the petition pending before it would be in the best interest of the child. The circuit court or juvenile and domestic relations district court, as the case may be, shall consider all relevant factors, including the birth parent(s)' efforts to obtain or maintain legal and physical custody of the child; whether the birth parent(s) are currently willing and able to assume full custody of the child; whether the birth parent(s)' efforts to assert parental rights were thwarted by other people; the birth parent(s)' ability to care for the child; the age of the child; the quality of any previous relationship between the birth parent(s) and the child and between the birth parent(s) and any other minor children; the duration and suitability of the child's present custodial environment; and the effect of a change of physical custody on the child.

(1995, cc. 772, 826, § 63.1-225.1; 2000, c. 830, § 63.1-219.13; 2002, c. 747; 2003, c. 467; 2006, cc. 825, 848.)

#### **§ 63.2-1205.1. Violent sex offenders prohibited from adopting a child.**

No petition for adoption shall be granted if the person seeking to adopt has been convicted of a sexually violent offense or an offense requiring registration pursuant to § [9.1-902](#).

(2006, c. 384.)

### **§ 63.2-1206. No parental presumption after revocation period expires.**

If, after the expiration of the appropriate revocation period provided for in § [63.2-1223](#) or § [63.2-1234](#), a birth parent or an alleged birth parent attempts to obtain or regain custody of or attempts to exercise parental rights to a child who has been placed for adoption,



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there shall be no parental presumption in favor of any party. Upon the motion of any such birth parent or alleged birth parent, or upon the motion of any person or agency with whom the child has been placed, the circuit or juvenile and domestic relations district court, as the case may be, shall determine (i) whether the birth parent or alleged birth parent is a person whose consent to the adoption is required and, if so, then (ii) pursuant to § 63.2-1205, whether, in the best interest of the child, the consent of the person whose consent is required is being withheld contrary to the best interest of the child or is unobtainable.

(1995, cc. 772, 826, § 63.1-220.7; 2000, c. 830, § 63.1-219.14; 2002, c. 747; 2003, c. 467.) § 63.2-1207. Removal of child from adoptive home.

When a child is placed in an adoptive home pursuant to an adoptive home placement agreement by a local board or by a licensed child-placing agency pursuant to § 63.2-1221, or by the birth parent or legal guardian of the child pursuant to § 63.2-1230, and a circuit court of competent jurisdiction has not entered an interlocutory order of adoption, such child shall not be removed from the physical custody of the adoptive parents, except (i) with the consent of the adoptive parents; (ii) upon order of the juvenile and domestic relations district court or the circuit court of competent jurisdiction; (iii) pursuant to § 63.2-904, which removal shall be subject to review by the juvenile and domestic relations district court upon petition of the adoptive parents; or (iv) upon order of the juvenile and domestic relations district court that accepted consent when consent has been revoked as authorized by § 63.2-1204 or § 63.2-1223.

When a child has been placed in an adoptive home directly by the birth parents or legal guardian of the child, the adoptive parents have been granted custody of the child pursuant to § 63.2-1233, and it becomes necessary to remove the child from the home of the adoptive parents, the juvenile and domestic relations district court entering such an order shall order that any consent given for the purposes of such placement shall be void and shall determine the custody of the child.

(1989, c. 647, § 63.1-220.5; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.15; 2002, c. 747.)

### **§ 63.2-1208. Investigations; report to circuit court.**

A. Upon consideration of the petition, the circuit court shall, upon being satisfied as to proper jurisdiction and venue, immediately enter an order referring the case to a child-placing agency to conduct an investigation and prepare a report unless no investigation is required pursuant to this chapter. The court shall enter the order of reference prior to or concurrently with the entering of an order of publication, if such is necessary. Upon entry of the order of reference, the clerk shall forward a copy of the order of reference, the petition, and all exhibits thereto to the Commissioner and the child-placing agency retained to provide investigative, reporting, and supervisory services. If no Virginia agency was retained to provide such services, the order of reference, petition, and all exhibits shall be forwarded to the local director of social services of the locality where

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the petitioners reside or resided at the time of filing the petition or had legal residence at the time the petition was filed.

B. Upon receiving a petition and order of reference from the circuit court, the applicable agency shall make a thorough investigation of the matter and report thereon in writing, in such form as the Commissioner may prescribe, to the circuit court within 60 days after the copy of the petition and all exhibits thereto are forwarded. A copy of the report to the circuit court shall be served on the Commissioner by delivering or mailing a copy to him on or before the day of filing the report with the circuit court. On the report to the circuit court there shall be appended either acceptance of service or certificate of the local director, or the representative of the child-placing agency, that copies were served as this section requires, showing the date of delivery or mailing. The circuit court shall expeditiously consider the merits of the petition upon receipt of the report.

C. If the report is not made to the circuit court within the periods specified, the circuit court may proceed to hear and determine the merits of the petition and enter such order or orders as the circuit court may deem appropriate.

D. The investigation requested by the circuit court shall include, in addition to other inquiries that the circuit court may require the child-placing agency or local director to make, inquiries as to (i) whether the petitioner is financially able, except as provided in Chapter 13 (§ 63.2-1300 et seq.) of this title, morally suitable, in satisfactory physical and mental health and a proper person to care for and to train the child; (ii) what the physical and mental condition of the child is; (iii) why the parents, if living, desire to be relieved of the responsibility for the custody, care, and maintenance of the child, and what their attitude is toward the proposed adoption; (iv) whether the parents have abandoned the child or are morally unfit to have custody over him; (v) the circumstances under which the child came to live, and is living, in the physical custody of the petitioner; (vi) whether the child is a suitable child for adoption by the petitioner; (vii) what fees have been paid by the petitioners or on their behalf to persons or agencies that have assisted them in obtaining the child; and (viii) whether the requirements of subsections E and F have been met. Any report made to the circuit court shall include a recommendation as to the action to be taken by the circuit court on the petition. A copy of any report made to the circuit court shall be furnished to counsel of record representing the adopting parent or parents. When the investigation reveals that there may have been a violation of § 63.2-1200 or § 63.2-1218, the local director or child-placing agency shall so inform the circuit court and the Commissioner.

E. The report shall include the relevant physical and mental history of the birth parents if known to the person making the report. The child-placing agency or local director shall document in the report all efforts they made to encourage birth parents to share information related to their physical and mental history. However, nothing in this subsection shall require that an investigation of the physical and mental history of the birth parents be made.

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F. The report shall include a statement by the child-placing agency or local director that all reasonably ascertainable background, medical, and psychological records of the child have been provided to the prospective adoptive parent(s). The report also shall include a list of such records provided.

G. If the specific provisions set out in §§ [63.2-1228](#), [63.2-1238](#), [63.2-1242](#) and [63.2-1244](#) do not apply, the petition and all exhibits shall be forwarded to the local director where the petitioners reside or to a licensed child-placing agency.

(Code 1950, §§ 63-348.1, 63-349, 63-356.1; 1950, pp. 441, 626; 1954, c. 489; 1956, cc. 187, 300, 489; 1962, c. 603; 1964, cc. 139, 429; 1968, cc. 346, 578, §§ 63.1-222, 63.1-223, 63.1-231; 1972, c. 823; 1974, cc. 26, 337, 421, 493, 507; 1975, c. 364; 1977, c. 526; 1978, c. 730; 1979 c. 339; 1980, c. 740; 1982, c. 115; 1985, cc. 298, 300; 1986, cc. 481, 482; 1987, c. 482; 1988, cc. 53, 579, 599, 882; 1989, c. 647; 1992, c. 607; 1993, c. 553; 1995, cc. 772, 826; 2000, c. 830, §§ 63.1-219.35, 63.1-219.45, 63.1-219.49, 63.1-219.51; 2002, c. 747; 2003, c. 502; 2006, cc. 825, 848; 2007, c. 446.)

### **§ 63.2-1209. Entry of interlocutory order.**

If, after considering the home study or any required report, the circuit court is satisfied that all of the applicable requirements have been complied with, that the petitioner is financially able to maintain adequately, except as provided in Chapter 13 (§ [63.2-1300](#) et seq.) of this title, and is morally suitable and a proper person to care for and train the child, that the child is suitable for adoption by the petitioner, and that the best interests of the child will be promoted by the adoption, it shall enter an interlocutory order of adoption declaring that henceforth, subject to the probationary period hereinafter provided for and to the provisions of the final order of adoption, the child will be, to all intents and purposes, the child of the petitioner. If the petition includes a prayer for a change of the child's name and the circuit court is satisfied that such change is in the best interests of the child, upon entry of final order, the name of the child shall be changed. An attested copy of every interlocutory order of adoption shall be forwarded forthwith by the clerk of the circuit court in which it was entered to the Commissioner and to the licensed or duly authorized child-placing agency or the local director that prepared the required home study or report.

If the circuit court denies the petition for adoption and if it appears to the circuit court that the child is without proper care, custody or guardianship, the circuit court may, in its discretion, appoint a guardian for the child or commit the child to a custodial agency as provided for in §§ [16.1-278.2](#), [16.1-278.3](#) and [31-5](#), respectively.

(Code 1950, § 63-352; 1954, c. 489; 1964, c. 429; 1968, c. 578, § 63.1-226; 1974, c. 507; 1975, c. 364; 1989, c. 647; 1991, c. 534; 1992, c. 607; 2000, c. 830, § 63.1-219.16; 2002, c. 747.)

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#### **§ 63.2-1210. Probationary period, interlocutory order and order of reference not required under certain circumstances.**

The circuit court may omit the probationary period and the interlocutory order and enter a final order of adoption under the following circumstances:

1. If the child is legally the child by birth or adoption of one of the petitioners and the circuit court is of the opinion that the entry of an interlocutory order would otherwise be proper.
2. If one of the petitioners is a step-parent of the child and the circuit court is of the opinion that the entry of an interlocutory order would otherwise be proper. The court may omit the order of reference if the petitioners meet the requirements of § 63.2-1241.
3. After receipt of the report required by § 63.2-1208, if the child has been placed in the physical custody of the petitioner by a child-placing agency and (i) the placing or supervising agency certifies to the circuit court that the child has lived in the physical custody of the petitioner continuously for a period of at least six months immediately preceding the filing of the petition and has been visited by a representative of such agency at least three times within a six-month period, provided there are not less than ninety days between the first visit and the last visit, and (ii) the circuit court is of the opinion that the entry of an interlocutory order would otherwise be proper. The circuit court may, for good cause shown, in cases of placement by a child-placing agency, omit the requirement that the three visits be made within a six-month period.
4. After receipt of the report, if the child has been in physical custody of the petitioner continuously for at least three years immediately prior to the filing of the petition for adoption, and the circuit court is of the opinion that the entry of an interlocutory order would otherwise be proper.
5. After receipt of the report, if the child has been legally adopted according to the laws of a foreign country with which the United States has diplomatic relations and if the circuit court is of the opinion that the entry of an interlocutory order would otherwise be proper, and the child (i) has been in the physical custody of the petitioners for at least one year immediately prior to the filing of the petition and a representative of a child-placing agency has visited the petitioner and child at least once in the six months immediately preceding the filing of the petition or during its investigation pursuant to § 63.2-1208 or (ii) has been in the physical custody of the petitioners for at least six months immediately prior to the filing of the petition, has been visited by a representative of a child-placing agency or of the local department three times within such six-month period with no fewer than ninety days between the first and last visits, and the last visit has occurred within six months immediately prior to the filing of the petition.
6. After receipt of the report, if the child was placed into Virginia from a foreign country in accordance with § 63.2-1104, and the child has been in the physical custody of the petitioner for at least six months immediately prior to the filing of the petition and has

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been visited by a representative of a licensed child-placing agency or of the local department three times within the six-month period with no fewer than ninety days between the first and last visits. The circuit court may, for good cause shown, in cases of an international placement, omit the requirement that the three visits be made within a six-month period.

(Code 1950, § 63-355; 1952, c. 71; 1954, c. 489; 1962, c. 603; 1964, c. 429; 1968, c. 578, § 63.1-229; 1975, c. 364; 1978, c. 750; 1980, c. 268; 1983, c. 334; 1986, c. 470; 1992, c. 607; 1993, c. 553; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.17; 2002, c. 747; 2006, cc. 825, 848.)

#### **§ 63.2-1211. Revocation of interlocutory order.**

The circuit court may, by order entered of record, revoke its interlocutory order of adoption at any time prior to the entry of the final order, for good cause shown, on its own motion, or on the motion of the birth parents of the child, or of the petitioner, or of the child himself by his next friend, or of the child-placing agency, which placed the child with the petitioners or of the Commissioner; but, no such order of revocation shall be entered, except on motion of the petitioner, unless the petitioner is given ten days' notice of such motion in writing and an opportunity to be heard or has removed from the Commonwealth. The clerk of the circuit court shall forward an attested copy of every such order to the Commissioner and to the child-placing agency that placed the child.

When an interlocutory order has been entered and subsequently is revoked, the circuit court may proceed in the same manner as set forth in § 63.2-1209 to enter an order concerning the subsequent custody or guardianship of the child.

(Code 1950, § 63-353; 1954, c. 489; 1964, c. 429; 1968, c. 578, § 63.1-227; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.18; 2002, c. 747.)

#### **§ 63.2-1212. Visitations during probationary period and report.**

A. Except as hereinafter provided, after the entry of an interlocutory order of adoption, (i) the licensed or duly authorized child-placing agency; (ii) if the child was not placed by an agency and the placement is not a parental placement, the local director; (iii) if the placement is a parental placement, the child-placing agency that submitted the home study; or, (iv) if the child was placed by an agency in another state or by an agency, court, or other entity in another country, the local director or licensed child-placing agency, whichever agency completed the home study or provided supervision, shall cause the child to be visited at least three times within a period of six months by an agent of such local board or local department or by an agent of such licensed or duly authorized child-placing agency. Whenever practicable, such visits shall be made within the six-month period immediately following the date of entry of the interlocutory order; however, no less than ninety days shall elapse between the first visit and the last visit. The agency that placed the child, the child-placing agency that submitted the home study, the local director or the licensed child-placing agency, as applicable, shall make a written

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report to the circuit court, in such form as the Commissioner may prescribe, of the findings made pursuant to such visitations. A copy of the report to the circuit court shall be furnished to the counsel of record for the parties, which copy shall be returned by such counsel as is required by § 63.2-1246 for the return of the original report. A copy of the report to the circuit court shall be served on the Commissioner by delivering or mailing a copy to him on or before the day of filing the report with the circuit court. On the report to the circuit court there shall be appended either acceptance of service or certification of the local director or the representative of the child-placing agency, that copies were served as this section requires, showing the date of delivery or mailing.

B. The three supervisory visits required in subsection A shall be conducted in the presence of the child. At least one such visit shall be conducted in the home of the petitioners in the presence of the child and both petitioners, unless the petition was filed by a single parent or one of the petitioners is no longer residing in the home.

C. When it is determined for purposes of subsection B that the petitioner no longer resides in the adoptive home, the child-placing agency or local director shall contact the petitioner to determine whether or not the petitioner wishes to remain a party to the proceedings and shall include in its report to the circuit court the results of its findings.

(Code 1950, § 63-354; 1956, c. 187; 1962, c. 603; 1964, c. 429; 1968, c. 578, § 63.1-228; 1972, c. 73; 1975, c. 364; 1976, c. 367; 1980, c. 740; 1988, c. 599; 1989, c. 647; 1992, c. 607; 2000, c. 830, § 63.1-219.19; 2002, c. 747; 2007, cc. 606, 623.)

### **§ 63.2-1213. Final order of adoption.**

After consideration of the report made pursuant to § 63.2-1212 or as permitted pursuant to § 63.2-1210, if the circuit court is satisfied that the best interests of the child will be served thereby, the circuit court shall enter the final order of adoption. However, a final order of adoption shall not be entered until information has been furnished by the petitioner in compliance with § 32.1-262 unless the circuit court, for good cause shown, finds the information to be unavailable or unnecessary. No circuit court shall deny a petitioner a final order of adoption for the sole reason that the child was placed in the physical custody of the petitioner by a person not authorized to make such placements pursuant to § 63.2-1200. An attested copy of every final order of adoption shall be forwarded, by the clerk of the circuit court in which it was entered, to the Commissioner and to the child-placing agency that placed the child or to the local director, in cases where the child was not placed by an agency.

(Code 1950, § 63-356; 1962, c. 603; 1964, c. 429; 1968, c. 578, § 63.1-230; 1975, c. 364; 1981, c. 318; 1988, c. 431; 2000, c. 830, § 63.1-219.20; 2002, c. 747; 2006, cc. 825, 848; 2007, cc. 606, 623.)

### **§ 63.2-1214. Annual review of pending petitions for adoption; duty of Commissioner and circuit court clerk.**



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After the expiration of twelve months from the date of the entry of the last order upon a petition for adoption, except when the last order entered is a final order of adoption, it shall be the responsibility of the Commissioner to notify the clerk of the circuit court of all adoption cases that have been pending for a period of more than twelve months, and the clerk of the circuit court shall place on the docket all such cases for review by the circuit court as soon as practicable.

(1976, c. 353, § 63.1-230.1; 2000, c. 830, § 63.1-219.21; 2002, c. 747.)

### **§ 63.2-1215. Legal effects of adoption.**

The birth parents, and the parents by previous adoption, if any, other than any such parent who is the husband or wife of one of the petitioners, shall, by final order of adoption, be divested of all legal rights and obligations in respect to the child including the right to petition any court for visitation with the child. Except where a final order of adoption is entered pursuant to § 63.2-1241, any person whose interest in the child derives from or through the birth parent or previous adoptive parent, including but not limited to grandparents, stepparents, former stepparents, blood relatives and family members shall, by final order of adoption, be divested of all legal rights and obligations in respect to the child including the right to petition any court for visitation with the child. In all cases the child shall be free from all legal obligations of obedience and maintenance in respect to such persons divested of legal rights. Any child adopted under the provisions of this chapter shall, from and after the entry of the interlocutory order or from and after the entry of the final order where no such interlocutory order is entered, be, to all intents and purposes, the child of the person or persons so adopting him, and, unless and until such interlocutory order or final order is subsequently revoked, shall be entitled to all the rights and privileges, and subject to all the obligations, of a child of such person or persons born in lawful wedlock. An adopted person is the child of an adopting parent, and as such, the adopting parent shall be entitled to testify in all cases civil and criminal, as if the adopted child was born of the adopting parent in lawful wedlock.

(Code 1950, § 63-357; 1968, c. 578, § 63.1-233; 1995, cc. 772, 826; 1997, c. 690; 2000, c. 830, § 63.1-219.22; 2002, c. 747; 2003, c. 229.)

### **§ 63.2-1216. Final order not subject to attack after six months.**

After the expiration of six months from the date of entry of any final order of adoption from which no appeal has been taken to the Court of Appeals, the validity thereof shall not be subject to attack in any proceedings, collateral or direct, for any reason, including but not limited to fraud, duress, failure to give any required notice, failure of any procedural requirement, or lack of jurisdiction over any person, and such order shall be final for all purposes.

(Code 1950, § 63-361; 1954, c. 489; 1968, c. 578, § 63.1-237; 1984, c. 703; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.23; 2002, c. 747.)

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### **§ 63.2-1217. Provision of false information; penalty.**

Any person who knowingly and intentionally provides false information in writing and under oath, which is material to an adoptive placement shall be guilty of a Class 6 felony. The Commissioner is authorized to investigate such cases and may refer the case to the attorney for the Commonwealth for prosecution.

(1995, cc. 772, 826, § 63.1-220.6; 2000, c. 830, § 63.1-219.24; 2002, c. 747.)

### **§ 63.2-1218. Certain exchange of property, advertisement, solicitation prohibited; penalty.**

No person or child-placing agency shall charge, pay, give, or agree to give or accept any money, property, service or other thing of value in connection with a placement or adoption or any act undertaken pursuant to this chapter except (i) reasonable and customary services provided by a licensed or duly authorized child-placing agency and fees paid for such services; (ii) payment or reimbursement for medical expenses and insurance premiums that are directly related to the birth mother's pregnancy and hospitalization for the birth of the child who is the subject of the adoption proceedings, for mental health counseling received by the birth mother or birth father related to the adoption, and for expenses incurred for medical care for the child; (iii) payment or reimbursement for reasonable and necessary expenses for food, clothing, and shelter when, upon the written advice of her physician, the birth mother is unable to work or otherwise support herself due to medical reasons or complications associated with the pregnancy or birth of the child; (iv) payment or reimbursement for reasonable expenses incurred incidental to any required court appearance including, but not limited to, transportation, food and lodging; (v) usual and customary fees for legal services in adoption proceedings; and (vi) payment or reimbursement of reasonable expenses incurred for transportation in connection with any of the services specified in this section or intercountry placements as defined in § 63.2-100 and as necessary for compliance with state and federal law in such placements. No person shall advertise or solicit to perform any activity prohibited by this section. Any person violating the provisions of this section shall be guilty of a Class 6 felony. The Commissioner is authorized to investigate cases in which fees paid for legal services appear to be in excess of usual and customary fees in order to determine if there has been compliance with the provisions of this section.

(1989, c. 647, § 63.1-220.4; 1993, c. 553; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.25; 2002, c. 747.)

### **§ 63.2-1219. Suspected violation of property exchange information.**

If the juvenile and domestic relations or circuit court or any participating licensed or duly authorized child-placing agency suspects that there has been a violation of § 63.2-1218 in connection with a placement or adoption, it shall report such findings to the Commissioner for investigation and appropriate action. If the Commissioner suspects that a person has violated § 63.2-1218, he shall report his findings to the appropriate attorney



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for the Commonwealth. If the Commissioner believes that such violation has occurred in the course of the practice of a profession or occupation licensed or regulated pursuant to Title 54.1, he shall also report such findings to the appropriate regulatory authority for investigation and appropriate disciplinary action.

(1989, c. 647, § 63.1-220.3; 1991, cc. 364, 602; 1992, c. 125; 1993, cc. 338, 553; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.26; 2002, c. 747.)

### **§ 63.2-1220. Issuance of birth certificates for children adopted in the Commonwealth and from foreign countries.**

A. For the purpose of securing a new birth certificate for an adopted child, the procedures set forth in § [32.1-262](#) shall be followed.

B. Adoptive parents who are residents of the Commonwealth may petition the circuit court in the city or county where they reside for a report of adoption when the adoptive parents are seeking a Virginia certificate of birth for a child adopted in a foreign country that has post-adoption reporting requirements and with whom the United States has diplomatic relations. The adoptive parents shall provide the circuit court with evidence, such as an admission stamp in the child's passport, that the child was admitted to the United States with an immediate relative immigrant visa (IR-3), a report of adoption on a form furnished by the State Registrar of Vital Records, completed post-adoption reports, and a signed affidavit stating that any outstanding post-adoption requirements shall be met as required by the foreign country. The affidavit shall also include the name by which the child is to be known. The circuit court shall review all documents provided by the adoptive parents. If the circuit court finds that all requirements of this subsection have been met, the circuit court may issue the report of adoption to the State Registrar for issuance of a Virginia certificate of birth in accordance with § [32.1-262](#).

C. Except as provided in subsection B, adoptive parents seeking to have a child from a foreign country adopted or who choose to readopt a child from a foreign country in Virginia shall comply with all adoption requirements of this chapter in order to get a Virginia certificate of birth.

(1970, c. 672, § 63.1-221.1; 2000, c. 830, § 63.1-219.27; 2002, c. 747; 2003, c. 985.)

#### **§ 63.2-1220.1. Establishment of minimum training requirements.**

The Department shall, pursuant to Board regulations, establish minimum training requirements and shall provide educational programs for foster and adoption workers employed by the local department and their supervisors.

(2008, cc. 133, 700.)

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#### **§ 63.2-1221. Placement of children for adoption by agency or local board.**

A licensed child-placing agency or local board may place for adoption, and is empowered to consent to the adoption of, any child who is properly committed or entrusted to its care, in accordance with the provisions of §§ 63.2-900, 63.2-903, 63.2-1817 or this section, when the order of commitment or the entrustment agreement between the birth parent(s) and the agency or board provides for the termination of all parental rights and responsibilities with respect to the child for the purpose of placing and consenting to the adoption of such child.

The entrustment agreement shall divest the birth parent(s) of all legal rights and obligations with respect to the child, and the child shall be free from all legal obligations of obedience and maintenance with respect to them, provided that such rights and obligations may be restored to the birth parent(s) and the child by circuit court order prior to the entry of a final order of adoption upon proof of fraud or duress. An entrustment agreement for the termination of all parental rights and responsibilities shall be executed in writing and notarized.

(1989, c. 647, § 63.1-220.2; 1990, c. 202; 1991, c. 364; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.28; 2002, c. 747; 2004, c. 815.)

#### **§ 63.2-1222. Execution of entrustment agreement by birth parent(s); exceptions; notice and objection to entrustment; copy required to be furnished; requirement for agencies outside the Commonwealth.**

A. For the purposes of this section, a birth parent who is less than 18 years of age shall be deemed fully competent and shall have legal capacity to execute a valid entrustment agreement, including an agreement that provides for the termination of all parental rights and responsibilities, and perform all acts related to adoption and shall be as fully bound thereby as if such birth parent had attained the age of 18 years.

B. An entrustment agreement for the termination of all parental rights and responsibilities with respect to the child shall be valid notwithstanding that it is not signed by the birth father of a child born out of wedlock if the identity of the birth father is not reasonably ascertainable or such birth father did not register with the Putative Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of this chapter or the birth father named by the birth mother denies under oath and in writing the paternity of the child. A birth father shall be given notice of the entrustment if he is an acknowledged father pursuant to § 20-49.1, an adjudicated father pursuant to § 20-49.8, a presumed father pursuant to § 63.2-1202, or a putative father who has registered with Putative Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of this chapter. If the putative father's identity is reasonably ascertainable, he shall be given notice pursuant to the requirements of § 63.2-1250.

C. When a birth father is required to be given notice, he may be given notice of the entrustment by registered or certified mail to his last known address. If he fails to object to the entrustment within 15 days of the mailing of such notice, his entrustment shall not

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be required. Such objection shall be in writing, signed by the objecting party or counsel of record for the objecting party and shall be filed with the agency that mailed the notice of entrustment within the time period specified in § 63.2-1223.

D. The execution of an entrustment agreement shall be required of a presumed father except under the following circumstances: (i) if he denies paternity under oath and in writing in accordance with § 63.2-1202; (ii) if the presumption is rebutted by sufficient evidence, satisfactory to the circuit court, which would establish by a preponderance of the evidence the paternity of another man or the impossibility or improbability of cohabitation of the birth mother and her husband for a period of at least 300 days preceding the birth of the child; (iii) if another man admits, in writing and under oath, that he is the biological father; or (iv) if an adoptive placement has been determined to be in the best interests of the child pursuant to § 63.2-1205.

E. When none of the provisions of subsections C and D apply, notice of the entrustment shall be given to the presumed father pursuant to the requirements of § 16.1-277.01.

F. An entrustment agreement for the termination of all parental rights and responsibilities with respect to the child shall be valid notwithstanding that it is not signed by the birth father of a child when the birth father has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, and the child was conceived as a result of such violation.

G. A birth father may execute an entrustment agreement for the termination of all of his parental rights prior to the birth of the child. Such entrustment shall be subject to the revocation provisions of § 63.2-1223.

H. No entrustment shall be required of a birth father if he denies under oath and in writing the paternity of the child. Such denial of paternity may be withdrawn no more than 10 days after it is executed. Once the child is 10 days old, any executed denial of paternity is final and constitutes a waiver of all rights with respect to the adoption of the child and cannot be withdrawn.

I. A copy of the entrustment agreement shall be furnished to all parties signing such agreement.

J. When any agency outside the Commonwealth, or its agent, that is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates executes an entrustment agreement in the Commonwealth with a birth parent for the termination of all parental rights and responsibilities with respect to the child, the requirements of §§ 63.2-1221 through 63.2-1224 shall apply. The birth parent may expressly waive, under oath and in writing, the execution of the entrustment under the requirements of §§ 63.2-1221 through 63.2-1224 in favor of the execution of an entrustment or relinquishment under the laws of another state if the birth parent is represented by independent legal counsel. Such written waiver shall expressly state that

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the birth parent has received independent legal counsel advising of the laws of Virginia and of the other state and that Virginia law is expressly being waived. The waiver also shall include the name, address, and telephone number of such legal counsel. Any entrustment agreement that fails to comply with such requirements shall be void.

(1989, c. 647, § 63.1-220.2; 1990, c. 202; 1991, c. 364; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.29; 2002, c. 747; 2004, c. 815; 2005, c. 890; 2006, cc. 825, 848; 2007, cc. 606, 623.)

### **§ 63.2-1223. Revocation of entrustment agreement.**

A valid entrustment agreement terminating all parental rights and responsibilities to the child shall be revocable by either of the birth parents until (i) the child has reached the age of 10 days and (ii) seven days have elapsed from the date of execution of the agreement. In addition, a valid entrustment agreement shall be revocable by either of the birth parents if the child has not been placed in the physical custody of the prospective adoptive parents at the time of such revocation. Revocation of an entrustment agreement shall be in writing and signed by the revoking party. The written revocation shall be delivered to the child-placing agency or local board to which the child was originally entrusted. Delivery of the written revocation shall be made during the business day of the child-placing agency or local board to which the child was originally entrusted, in accordance with the applicable time period set out in this section. If the revocation period expires on a Saturday, Sunday, legal holiday or any day on which the agency or local board is officially closed, the revocation period shall be extended to the next day that is not a Saturday, Sunday, legal holiday or other day on which the agency or local board is officially closed. Upon revocation of the entrustment agreement, the child shall be returned to the parent revoking the agreement.

(1989, c. 647, § 63.1-220.2; 1990, c. 202; 1991, c. 364; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.30; 2002, c. 747; 2006, cc. 825, 848; 2007, cc. 606, 623.)

### **§ 63.2-1224. Counseling of birth parents required.**

Prior to the placement of a child for adoption, the licensed child-placing agency or local board having custody of the child shall counsel the birth mother or, if reasonably available, both birth parents, concerning the disposition of their child.

(1989, c. 647, § 63.1-220.2; 1990, c. 202; 1991, c. 364; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.31; 2002, c. 747.)

### **§ 63.2-1225. Determination of appropriate home.**

A. In determining the appropriate home in which to place a child for adoption, a married couple or an unmarried individual shall be eligible to receive placement of a child for purposes of adoption. When a licensed child-placing agency or a local board accepts custody of the child for the purpose of placing the child for adoption, the agency or local

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board shall consider the recommendations of the birth parent(s), a physician or attorney licensed in the Commonwealth, or a clergyman who is familiar with the situation of the prospective adoptive parent(s) or the child. No birth parent, physician, attorney or clergyman shall advertise that he is available to make recommendations, nor shall he charge any fee for such recommendations to a board or agency, except that an attorney may charge for legal fees and services rendered in connection with such placement.

B. The agency or local board may give consideration to placement of the child with the recommended adoptive parent(s) if the agency or local board finds that such placement is in the best interest of the child. When the birth parent(s) has recommended such placement, the agency or local board shall provide the birth parent(s) the opportunity to be represented by independent legal counsel as well as the opportunity for counseling with a social worker. The agency or board also shall advise the prospective adoptive parent(s) of the right to be represented by independent legal counsel. The parties may, but are not required to, exchange identifying information as provided for in subdivision A 3 of § [63.2-1232](#).

(1989, c. 647, § 63.1-220.2; 1990, c. 202; 1991, c. 364; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.32; 2002, c. 747; 2003, c. 779; 2006, cc. 654, 825.)

#### **§ 63.2-1226. When birth parents recommend adoptive parents.**

When a licensed child-placing agency or a local board is requested to accept custody of a child for the purpose of placing the child with adoptive parent(s) recommended by the birth parent(s) or a person other than a licensed child-placing agency or local board, either the parental placement adoption provisions or the agency adoption provisions of this chapter shall apply to such placement at the election of the birth parent(s). Such agency or local board shall provide information to the birth parent(s) regarding the parental placement adoption and agency adoption provisions and shall provide the birth parent the opportunity to be represented by independent legal counsel as well as counseling with a social worker. No person shall charge, pay, give, or agree to give or accept any money, property, services, or other thing of value in connection with such adoption except as provided in § [63.2-1218](#).

(1989, c. 647, § 63.1-220.2; 1990, c. 202; 1991, c. 364; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.33; 2002, c. 747; 2006, cc. 654, 825; 2007, cc. 606, 623.)

#### **§ 63.2-1227. Filing of petition for agency adoption.**

A petition for the adoption of a child placed in the physical custody of the petitioners by a child-placing agency shall be filed in the name by which the child will be known after adoption, provided the name is followed by the registration number of the child's original birth certificate and the state or country in which the registration occurred unless it is verified by the registrar of vital statistics of the state or country of birth that such information is not available. In the case of a child born in another country, an affidavit by a representative of the child-placing agency that a birth certificate number is not available

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may be substituted for verification by a registrar of vital statistics for that country. The report of investigation required by § 63.2-1208 and, when applicable, the report required by § 63.2-1212 shall be identified with the child's name as it appears on the birth certificate, the birth registration number and the name by which the child is to be known after the final order of adoption is entered. The petition for adoption shall not state the birth name of the child or identify the birth parents unless it is specifically stated in the agency's consent that the parties have exchanged identifying information.

A single petition for adoption under the provisions of this section shall be sufficient for the concurrent adoption by the same petitioners of two or more children who have the same birth parent or parents, and nothing in this section shall be construed as having heretofore required a separate petition for each of such children.

(Code 1950, § 63-348; 1952, c. 550; 1954, c. 489; 1956, c. 300; 1964, c. 459; 1968, c. 578, § 63.1-221; 1970, c. 672; 1973, c. 406; 1975, c. 461; 1978, c. 730; 1983, c. 614; 1988, c. 882; 1989, c. 647; 1991, cc. 76, 602; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.34; 2002, c. 747; 2006, cc. 825, 848.)

#### **§ 63.2-1228. Forwarding of petition.**

Upon the filing of the petition, the circuit court shall, upon being satisfied as to proper jurisdiction and venue, immediately enter an order referring the case to a child-placing agency to conduct an investigation and prepare a report pursuant to § 63.2-1208. Upon entry of the order of reference, the court shall forward a copy of the petition and all exhibits thereto to the Commissioner and to the agency that placed the child. In cases where the child was placed by an agency in another state, or by an agency, court, or other entity in another country, the petition and all exhibits shall be forwarded to the local director or licensed child-placing agency, whichever agency completed the home study or provided supervision. If no Virginia agency provided such services, or such agency is no longer licensed or has gone out of business, the petition and all exhibits shall be forwarded to the local director of the locality where the petitioners reside or resided at the time of filing the petition, or had legal residence at the time of the filing of the petition.

(Code 1950, § 63-349; 1954, c. 489; 1956, c. 489; 1956, c. 187; 1962, c. 603; 1964, c. 429; 1968, cc. 346, 578, § 63.1-223; 1974, cc. 26, 493, 507; 1975, c. 364; 1978, c. 730; 1980, c. 740; 1982, c. 115; 1988, cc. 579, 599, 882; 1989, c. 647; 1992, c. 607; 1993, c. 553; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.35; 2002, c. 747; 2006, cc. 825, 848.)

#### **§ 63.2-1229. Foster parent adoption.**

When a foster parent who has a child placed in the foster parents' home by a licensed or duly authorized child-placing agency desires to adopt the child and (i) the child has resided in the home of such foster parent continuously for at least eighteen months and (ii) the birth parents' rights to the child have been terminated, the circuit court shall accept the petition filed by the foster parent and shall order a thorough investigation of the matter to be made pursuant to § 63.2-1208. The circuit court may refer the matter for

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investigation to a licensed or duly authorized child-placing agency other than the agency holding custody of the child. Upon completion of the investigation and report and filing of the consent of the agency holding custody of the child, or upon the finding contemplated by § 63.2-1205, the circuit court may enter a final order of adoption waiving visitation requirements, if the circuit court determines that the adoption is in the best interests of the child.

(Code 1950, § 63-348; 1952, c. 550; 1954, c. 489; 1956, c. 300; 1964, c. 459; 1968, c. 578, § 63.1-221; 1970, c. 672; 1973, c. 406; 1975, c. 461; 1978, c. 730; 1983, c. 614; 1988, c. 882; 1989, c. 647; 1991, cc. 76, 602; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.36; 2002, c. 747; 2007, cc. 606, 623.)

### **§ 63.2-1230. Placement of children by parent or guardian.**

The birth parent or legal guardian of a child may place his child for adoption directly with the adoptive parents of his choice. Consent to the proposed adoption shall be executed upon compliance with the provisions of this chapter before a juvenile and domestic relations district court or, if the birth parent or legal guardian does not reside in Virginia, before a court having jurisdiction over child custody matters in the jurisdiction where the birth parent or legal guardian resides when requested by a juvenile and domestic relations district court of this Commonwealth, pursuant to § 20-146.11. Consent proceedings shall be advanced on the juvenile and domestic relations district court docket so as to be heard by the court within ten days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

(1989, c. 647, § 63.1-220.3; 1991, cc. 364, 602; 1992, c. 125; 1993, cc. 338, 553; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.37; 2001, c. 305; 2002, c. 747.)

### **§ 63.2-1231. Home study; meeting required; exception.**

A. Prior to the consent hearing in the juvenile and domestic relations district court, a home study of the adoptive parent(s) shall be completed by a licensed or duly authorized child-placing agency in accordance with regulations adopted by the Board. The home study shall make inquiry as to (i) whether the prospective adoptive parents are financially able, morally suitable, and in satisfactory physical and mental health to enable them to care for the child; (ii) the physical and mental condition of the child, if known; (iii) the circumstances under which the child came to live, or will be living, in the home of the prospective adoptive family, as applicable; (iv) what fees have been paid by the prospective adoptive family or in their behalf in the placement and adoption of the child; (v) whether the requirements of subdivisions A 1, A 2, A 3, and A 5 of § 63.2-1232 have been met; and (vi) any other matters specified by the circuit court. In the course of the home study, the agency social worker shall meet at least once with the birth parent(s) and at least once with the prospective adoptive parents. Upon agreement of both parties, such meetings may occur simultaneously or separately.



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B. Any home study conducted pursuant to this section for the purpose of parental placement or agency placement shall be valid for a period of 36 months from the date of completion of the study. However, the Board may, by regulation, require an additional state criminal background check before finalizing an adoption if more than 18 months have passed from the completion of the home study.

(1989, c. 647, § 63.1-220.3; 1991, cc. 364, 602; 1992, c. 125; 1993, cc. 338, 553; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.38; 2002, c. 747; 2006, cc. 825, 848; 2007, c. 808; 2008, c. 494.)

### **§ 63.2-1232. Requirements of a parental placement adoption.**

A. The juvenile and domestic relations district court shall not accept consent until it determines that:

1. The birth parent(s) are aware of alternatives to adoption, adoption procedures, and opportunities for placement with other adoptive families, and that the birth parents' consent is informed and uncoerced.
2. A licensed or duly authorized child-placing agency has counseled the prospective adoptive parents with regard to alternatives to adoption, adoption procedures, including the need to address the parental rights of birth parents, the procedures for terminating such rights, and opportunities for adoption of other children; that the prospective adoptive parents' decision is informed and uncoerced; and that they intend to file an adoption petition and proceed toward a final order of adoption.
3. The birth parent(s) and adoptive parents have exchanged identifying information including but not limited to full names, addresses, physical, mental, social and psychological information and any other information necessary to promote the welfare of the child, unless both parties agree in writing to waive the disclosure of full names and addresses.
4. Any financial agreement or exchange of property among the parties and any fees charged or paid for services related to the placement or adoption of the child have been disclosed to the court and that all parties understand that no binding contract regarding placement or adoption of the child exists.
5. There has been no violation of the provisions of § 63.2-1218 in connection with the placement; however, if it appears there has been such violation, the court shall not reject consent of the birth parent to the adoption for that reason alone but shall report the alleged violation as required by § 63.2-1219.
6. A licensed or duly authorized child-placing agency has conducted a home study of the prospective adoptive home in accordance with regulations established by the Board and has provided to the court a report of such home study, which shall contain the agency's



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recommendation regarding the suitability of the placement. A married couple or an unmarried individual shall be eligible to receive placement of a child for adoption.

7. The birth parent(s) have been informed of their opportunity to be represented by legal counsel.

B. The juvenile and domestic relations district court shall not accept the consent if the requirements of subsection A have not been met. In such cases, it shall refer the birth parent to a licensed or duly authorized child-placing agency for investigation and recommendation in accordance with §§ 63.2-1208 and 63.2-1238. If the juvenile and domestic relations district court determines that any of the parties is financially unable to obtain the required services, it shall refer the matter to the local director.

(1989, c. 647, § 63.1-220.3; 1991, cc. 364, 602; 1992, c. 125; 1993, cc. 338, 553; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.39; 2002, c. 747; 2006, cc. 654, 825, 848.)

### **§ 63.2-1233. Consent to be executed in juvenile and domestic relations district court; exceptions.**

When the juvenile and domestic relations district court is satisfied that all requirements of § 63.2-1232 have been met with respect to at least one birth parent and the adoptive child is at least in the third calendar day of life, that birth parent or both birth parents, as the

case may be, shall execute consent to the proposed adoption in compliance with the provisions of § 63.2-1202 while before the juvenile and domestic relations district court in person and in the presence of the prospective adoptive parents. The juvenile and domestic relations district court shall accept the consent of the birth parent(s) and transfer custody of the child to the prospective adoptive parents, pending notification to any nonconsenting birth parent, as described hereinafter.

1. a. The execution of consent before the juvenile and domestic relations district court shall not be required of a birth father if the birth father consents under oath and in writing to the adoption.

b. The consent of a birth father who is not married to the mother of the child at the time of the child's conception or birth shall not be required if the putative father named by the birth mother denies under oath and in writing the paternity of the child or if the putative father did not register with the Putative Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of this chapter. If the identity of the birth father is reasonably ascertainable, verification of compliance with the Putative Father Registry shall be provided to the court.

c. When a birth father is required to be given notice, he may be given notice of the adoption by registered or certified mail to his last known address and if he fails to object to the adoption within 15 days of the mailing of such notice, his consent shall not be

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required. An objection shall be in writing, signed by the objecting party or counsel of record for the objecting party and shall be filed with the clerk of the juvenile and domestic relations district court in which the petition was filed during the business day of the court, within the time period specified in this section. When no timely objection is filed, no hearing on this issue is required. Failure of the objecting party to appear at any scheduled hearing, either in person or by counsel, shall constitute a waiver of such objection.

d. The juvenile and domestic relations district court may accept the written consent of the birth father at the time of the child's conception or birth, provided that his identifying information required in § 63.2-1232 is filed in writing with the juvenile and domestic relations district court of jurisdiction. Such consent shall advise the birth father of his opportunity for legal representation, shall identify the court in which the case was or is intended to be filed, and shall be presented to the juvenile and domestic relations district court for acceptance. The consent may waive further notice of the adoption proceedings and shall contain the name, address and telephone number of the birth father's legal counsel or an acknowledgment that he was informed of his opportunity to be represented by legal counsel and declined such representation. For good cause shown, the court may dispense with the requirements regarding the filing of the birth father's identifying information pursuant to this subdivision 1. d.

e. In the event that the birth mother's consent is not executed in the juvenile and domestic relations district court, the consent of the birth father shall be executed in the juvenile and domestic relations district court.

f. A child born to a married birth mother shall be presumed to be the child of her husband and his consent shall be required, unless the court finds that the father's consent is withheld contrary to the best interests of the child as provided in § 63.2-1205 or if his consent is unobtainable. The consent of such presumed father shall be under oath and in writing and may be executed in or out of court. The presumption that the husband is the father of the child may be rebutted by sufficient evidence, satisfactory to the juvenile and domestic relations district court, which would establish by a preponderance of the evidence the paternity of another man or the impossibility or improbability of cohabitation of the birth mother and her husband for a period of at least 300 days preceding the birth of the child, in which case the husband's consent shall not be required. The executed denial of paternity by the putative father shall be sufficient to rebut the presumption that he is the father of the child. If the court is satisfied that the presumption has been rebutted, notice of the adoption shall not be required to be given to the presumed father.

2. After the application of the provisions of subdivision 1, if a birth parent is entitled to a hearing, the birth parent shall be given notice of the date and location of the hearing and be given the opportunity to appear before the juvenile and domestic relations district court. Such hearing may occur subsequent to the proceeding wherein the consenting birth parent appeared but may not be held until 15 days after personal service of notice on the nonconsenting birth parent, or if personal service is unobtainable, 10 days after the

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completion of the execution of an order of publication against such birth parent. The juvenile and domestic relations district court may appoint counsel for the birth parent(s). If the juvenile and domestic relations district court finds that consent is withheld contrary to the best interests of the child, as set forth in § 63.2-1205, or is unobtainable, it may grant the petition without such consent and enter an order waiving the requirement of consent of the nonconsenting birth parent and transferring custody of the child to the prospective adoptive parents. No further consent or notice shall be required of a birth parent who fails to appear at any scheduled hearing, either in person or by counsel. If the juvenile and domestic relations district court denies the petition, the juvenile and domestic relations district court shall order that any consent given for the purpose of such placement shall be void and, if necessary, the court shall determine custody of the child as between the birth parents.

3. Except as provided in subdivisions 4 and 5, if consent cannot be obtained from at least one birth parent, the juvenile and domestic relations district court shall deny the petition and determine custody of the child pursuant to § 16.1-278.2.

4. If the child was placed by the birth parent(s) with the prospective adoptive parents and if both birth parents have failed, without good cause, to appear at a hearing to execute consent under this section for which they were given proper notice pursuant to § 16.1-264, the juvenile and domestic relations district court may grant the petition without the consent of either birth parent and enter an order waiving consent and transferring custody of the child to the prospective adoptive parents. Prior to the entry of such an order, the juvenile and domestic relations district court may appoint legal counsel for the birth parents and shall find by clear and convincing evidence (i) that the birth parents were given proper notice of the hearing(s) to execute consent and of the hearing to proceed without their consent; (ii) that the birth parents failed to show good cause for their failure to appear at such hearing(s); and (iii) that pursuant to § 63.2-1205, the consent of the birth parents is withheld contrary to the best interests of the child or is unobtainable. Under this subdivision, the court or the parties may waive the requirement of the simultaneous meeting under § 63.2-1231 and the requirements of subdivisions A 1, A 3, and A 7 of § 63.2-1232 where the opportunity for compliance is not reasonably available under the applicable circumstances.

5. If both birth parents are deceased, the juvenile and domestic relations district court, after hearing evidence to that effect, may grant the petition without the filing of any consent.

6. No consent shall be required from the birth father of a child placed pursuant to this section when such father is convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, and the child was conceived as a result of such violation, nor shall the birth father be entitled to notice of any of the proceedings under this section.

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7. No consent shall be required of a birth father if he denies under oath and in writing the paternity of the child. Such denial of paternity may be withdrawn no more than 10 days after it is executed. Once the child is 10 days old, any executed denial of paternity is final and constitutes a waiver of all rights with the respect to the adoption of the child and cannot be withdrawn.

8. A birth father may consent to the adoption prior to the birth of the child.

9. The juvenile and domestic relations district court shall review each order entered under this section at least annually until such time as the final order of adoption is entered.

10. When there has been an interstate transfer of the child in a parental placement adoption in compliance with Chapter 10 (§ 63.2-1000 et seq.) of this title, all matters relating to the adoption of the child including, but not limited to, custody and parentage shall be determined in the court of appropriate jurisdiction in the state that was approved for finalization of the adoption by the interstate compact authorities.

(1989, c. 647, § 63.1-220.3; 1991, cc. 364, 602; 1992, c. 125; 1993, cc. 338, 553; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.40; 2002, c. 747; 2005, c. 890; 2006, cc. 825, 848; 2007, cc. 606, 623.)

#### **§ 63.2-1234. When consent is revocable.**

Consent shall be revocable as follows:

1. By either consenting birth parent for any reason for up to seven days from its execution; however, such seven-day revocation period may be waived in writing at the time of consent provided that the child is at least 10 days old and the consenting birth parent acknowledges having received independent legal counsel regarding the effect of such waiver. In the case of two consenting birth parents, the waiver by one consenting birth parent shall not affect the right of the second consenting birth parent to retain his seven-day revocation period.

a. Such revocation shall be in writing, signed by the revoking party or counsel of record for the revoking party and shall be filed with the clerk of the juvenile and domestic relations district court in which the petition was filed during the business day of the juvenile and domestic relations district court, within the time period specified in this section. If the revocation period expires on a Saturday, Sunday, legal holiday or any day on which the clerk's office is closed as authorized by statute, the revocation period shall be extended to the next day that is not a Saturday, Sunday, legal holiday or other day on which the clerk's office is closed as authorized by statute.

b. Upon the filing of a valid revocation within the time period set out in this section, the juvenile and domestic relations district court shall order that any consent given for the purpose of such placement is void and, if necessary, the juvenile and domestic relations district court shall determine custody of the child as between the birth parents.

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2. By any party prior to the final order of adoption (i) upon proof of fraud or duress or (ii) after placement of the child in an adoptive home, upon written, mutual consent of the birth parents and prospective adoptive parents.

(1989, c. 647, § 63.1-220.3; 1991, cc. 364, 602; 1992, c. 125; 1993, cc. 338, 553; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.41; 2002, c. 747; 2006, cc. 825, 848; 2008, c. 662.)

### **§ 63.2-1235. Adoptive home not in child's best interests.**

If the juvenile and domestic relations district court determines from the information provided to it that placement in the prospective adoptive home will be contrary to the best interests of the child, it shall so inform the birth parents. If the birth parents choose not to retain custody of the child nor to designate other prospective adoptive parents, or if the birth parents' whereabouts are not reasonably ascertainable, the juvenile and domestic relations district court shall determine custody of the child.

(1989, c. 647, § 63.1-220.3; 1991, cc. 364, 602; 1992, c. 125; 1993, cc. 338, 553; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.42; 2002, c. 747.)

### **§ 63.2-1236. Duty of Department to disseminate information.**

The Department shall develop and disseminate information to the public regarding the provisions of parental placement adoptions, including the desirability of initiating the procedures required by § 63.2-1232 as early in the placement and adoption process as possible to ensure that birth parents are aware of the provisions of this law and begin required procedures in a timely manner.

(1989, c. 647, § 63.1-220.3; 1991, cc. 364, 602; 1992, c. 125; 1993, cc. 338, 553; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830, § 63.1-219.43; 2002, c. 747.)

### **§ 63.2-1237. Petition for parental placement adoption; jurisdiction; contents.**

Proceedings for the parental placement adoption of a minor child and for a change of name of such child shall be instituted only by petition to the circuit court in the county or city in which the petitioner resides or in the county or city where a birth parent has executed a consent pursuant to § 63.2-1233. Such petition may be filed by any natural person who resides in the Commonwealth or is the adopting parent(s) of a child who was subject to a consent proceeding held pursuant to § 63.2-1233. The petition shall ask leave to adopt a minor child not legally the petitioner's by birth and, if it is so desired by the petitioner, also to change the name of such child. In the case of married persons, the petition shall be the joint petition of the husband and wife but, in the event the child to be adopted is legally the child by birth or adoption of one of the petitioners, such petitioner shall unite in the petition for the purpose of indicating his or her consent to the prayer thereof only. The petition shall contain a full disclosure of the circumstances under which the child came to live, and is living, in the home of the petitioner. Each petition for

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adoption shall be signed by the petitioner as well as by counsel of record, if any. In any case in which the petition seeks the entry of an adoption order without referral for investigation, the petition shall be under oath.

The petition shall state that the findings required by § 63.2-1232 have been made and shall be accompanied by appropriate documentation supporting such statement, to include copies of documents executing consent and transferring custody of the child to the prospective adoptive parents, and a copy of the report required by § 63.2-1231. The court shall not waive any of the requirements of this paragraph nor any of the requirements of § 63.2-1232 except as allowed pursuant to subdivision 4 of § 63.2-1233.

A single petition for adoption under the provisions of this section shall be sufficient for the concurrent adoption by the same petitioners of two or more children who have the same birth parent or parents; and nothing in this section shall be construed as having heretofore required a separate petition for each of such children.

(Code 1950, § 63-348; 1952, c. 550; 1954, c. 489; 1956, c. 300; 1964, c. 459; 1968, c. 578, § 63.1-221; 1970, c. 672; 1973, c. 406; 1975, c. 461; 1978, c. 730; 1983, c. 614; 1988, c. 882; 1989, c. 647; 1991, cc. 76, 602; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.44; 2002, c. 747; 2006, cc. 825, 848.)

### **§ 63.2-1238. Forwarding of petition; when investigation and report not required.**

A. Upon the filing of the petition, the circuit court shall forward a copy of the petition and all exhibits thereto to the Commissioner and to the local director where the petitioners reside or resided at the time of filing the petition, or had legal residence at the time of the filing of the petition. However, in cases where a licensed child-placing agency has completed a home study, the petition and all exhibits shall be forwarded to the licensed child-placing agency.

B. In parental placement adoptions where consent has been properly executed, no investigation and report pursuant to § 63.2-1208 is required. However, the circuit court may order a thorough investigation of the matter and report in which case the provisions of § 63.2-1208 shall apply.

(Code 1950, § 63-349; 1954, c. 489; 1956, c. 489; 1956, c. 187; 1962, c. 603; 1964, c. 429; 1968, cc. 346, 578, § 63.1-223; 1974, cc. 26, 493, 507; 1975, c. 364; 1978, c. 730; 1980, c. 740; 1982, c. 115; 1988, cc. 579, 599, 882; 1989, c. 647; 1992, c. 607; 1993, c. 553; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.45; 2002, c. 747.)

### **§ 63.2-1239. Return of copies furnished to counsel.**

Any copy of the report required by § 63.2-1208 to be furnished to counsel of record representing the adopting parent or parents shall, upon the entry of a final order of adoption, or other final disposition of the matter, be returned by such counsel, without having been duplicated, to the clerk of the circuit court in which final disposition of the



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matter is had, to be disposed of as is required by § 63.2-1246 for the return of the original report.

(Code 1950, § 63-350; 1968, c. 578, § 63.1-224; 1974, c. 26; 2000, c. 830, § 63.1-219.46; 2002, c. 747.)

#### **§ 63.2-1240. Court issuing order deemed sending agency under Interstate Compact on Placement of Children.**

When a petitioner moves outside the Commonwealth after the entry of an interlocutory order of adoption but prior to the entry of a final order of adoption and the child was not placed by a child-placing agency, the circuit court issuing the interlocutory order shall be deemed the sending agency for the purposes of the Interstate Compact on the Placement of Children authorized pursuant to the provisions of § 63.2-1000.

(1978, c. 733, § 63.1-226.1; 2000, c. 830, § 63.1-219.47; 2002, c. 747.)

#### **§ 63.2-1241. Adoption of child by new spouse of birth or adoptive parent.**

A. When the spouse of a birth parent of a child born in wedlock or the spouse of a parent by adoption of the child has died, and the surviving birth parent or parent by adoption marries again and the new spouse desires to adopt the child, on a petition filed by the surviving birth parent or parent by adoption and new spouse for the adoption and change of name of the child, the circuit court may proceed to order the proposed adoption or change of name without referring the matter to the local director.

B. When a birth parent of a legitimate infant or a parent by adoption is divorced and marries again and the birth parent or parent by adoption desires the new spouse to adopt the child, on a petition filed by the birth parent or parent by adoption and the new spouse for the adoption and change of name of the child, or if the child is the result of surrogacy, the circuit court may proceed to order the proposed adoption or change of name without referring the matter to the local director if the other birth parent or parent by adoption consents in writing to the adoption or change of name or if the other birth parent or parent by adoption is deceased.

C. When the custodial birth parent of a child born to parents who were not married to each other at the time of the child's conception or birth marries and the new spouse of such custodial birth parent desires to adopt such child, on a petition filed by the custodial birth parent and spouse for the adoption and change of name of the child, the circuit court may proceed to order the proposed adoption and change of name without referring the matter to the local director if (i) the noncustodial birth parent consents, under oath, in writing to the adoption, or (ii) the mother swears, under oath, in writing, that the identity of the father is not reasonably ascertainable, or (iii) the putative father named by the mother denies paternity of the child, or (iv) the child is fourteen years of age or older and has lived in the home of the person desiring to adopt the child for at least five years, or (v) the noncustodial birth parent is deceased, or (vi) the noncustodial birth parent

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executes a denial of paternity under oath and in writing, or (vii) the noncustodial birth parent:

- a. Is not an acknowledged father pursuant to § 20-49.1; and
- b. Is not an adjudicated father pursuant to § 20-49.8; and
- c. Is not a presumed father; and
- d. Is a putative father who has not registered with the Putative Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of this chapter and, if his identity is reasonably ascertainable, he has been provided notice pursuant to § 63.2-1250 and failed to timely register.

D. When a single person who has adopted a child thereafter marries and desires his spouse to adopt the child, on a petition filed by the adoptive parent and the spouse for the adoption and change of name of the child, the circuit court may proceed to order the proposed adoption or change of name without referring the matter to the local director.

(Code 1950, § 63-356.1; 1950, p. 626; 1956, c. 300; 1968, c. 578, § 63.1-231; 1974, c. 421; 1975, c. 364; 1977, c. 526; 1979, c. 339; 1986, cc. 481, 482; 1987, c. 482; 1992, c. 607; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.48; 2002, c. 747; 2006, cc. 825, 848; 2007, cc. 606, 623.)

### **§ 63.2-1242. Investigation and report at discretion of circuit court.**

For adoptions under this article, an investigation and report shall be undertaken only if the circuit court in its discretion determines that there should be an investigation before a final order of adoption is entered. If the circuit court makes such a determination, it shall refer the matter to the local director for an investigation and report to be completed within such time as the circuit court designates. If an investigation is ordered, the circuit court shall forward a copy of the petition and all exhibits thereto to the local director and the provisions of § 63.2-1208 shall apply.

(Code 1950, § 63-356.1; 1950, p. 626; 1956, c. 300; 1968, c. 578, § 63.1-231; 1974, c. 421; 1975, c. 364; 1977, c. 526; 1979, c. 339; 1986, cc. 481, 482; 1987, c. 482; 1992, c. 607; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.49; 2002, c. 747.)

#### **§ 63.2-1242.1. Close relative adoption.**

A. For the purposes of this chapter, a "close relative placement" shall be an adoption by the child's grandparent, great-grandparent, adult nephew or niece, adult brother or sister, adult uncle or aunt, or adult great uncle or great aunt.



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B. In a close relative placement the court may accept the written and signed consent of the birth parent(s) that is signed under oath and acknowledged by an officer authorized by law to take such acknowledgements.

(2006, cc. 825, 848.)

### **§ 63.2-1242.2. Close relative adoption; child in home less than three years.**

A. When the child has continuously resided in the home or has been in the continuous physical custody of the prospective adoptive parent(s) who is a close relative for less than three years, the adoption proceeding, including court approval of the home study, shall commence in the juvenile and domestic relations district court pursuant to the parental placement adoption provisions of this chapter with the following exceptions:

1. The birth parent(s)' consent does not have to be executed in juvenile and domestic relations district court in the presence of the prospective adoptive parents.
2. The simultaneous meeting specified in § 63.2-1231 is not required.
3. No hearing is required for this proceeding.

B. Upon the juvenile and domestic relations district court issuing an order accepting consents or otherwise dealing with birth parents rights and appointing the close relative(s) custodians of the child, the close relative(s) may file a petition in the circuit court as provided in Article 1 (§ 63.2-1200 et seq.) of this chapter.

C. For adoptions under this section:

1. An order of reference, an investigation and a report shall not be made if the home study report is filed with the circuit court unless the circuit court in its discretion requires an investigation and report to be made.
2. The circuit court may omit the probationary period and the interlocutory order and enter a final order of adoption when the court is of the opinion that the entry of an order would otherwise be proper.
3. If the circuit court determines that there is a need for an additional investigation, it shall refer the matter to the licensed child-placing agency that drafted the home study report for an investigation and report, which shall be completed within such times as the circuit court designates.

(2006, cc. 825, 848.)

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### **§ 63.2-1242.3. Close relative placement; child in home for three years or more.**

When the child has continuously resided in the home or has been in the continuous physical custody of the prospective adoptive parent(s) who is a close relative for three or more years, the parental placement provisions of this chapter shall not apply and the adoption proceeding shall commence in the circuit court.

For adoptions under this section:

1. An order of reference, an investigation and a report shall not be made unless the circuit court in its discretion shall require an investigation and report to be made.
2. The circuit court may omit the probationary period and the interlocutory order and enter a final order of adoption when the court is of the opinion that the entry of an order would otherwise be proper.
3. If the circuit court determines the need for an investigation, it shall refer the matter to the local director of the department of social services for an investigation and report, which shall be completed in such time as the circuit court designates.

(2006, cc. 825, 848.)

### **§ 63.2-1243. Adoption of certain persons eighteen years of age or over.**

A petition may be filed in circuit court by any natural person who is a resident of this Commonwealth (i) for the adoption of a stepchild eighteen years of age or over to whom he has stood in loco parentis for a period of at least three months; (ii) for the adoption of a close relative, as defined in § 63.2-1242.1, eighteen years of age or older; (iii) for the adoption of any person eighteen years of age or older who is the birth child of the petitioner or who had resided in the home of the petitioner for a period of at least three months prior to becoming eighteen years of age; or (iv) for the adoption of any person eighteen years of age or older, for good cause shown, provided that the person to be adopted is at least fifteen years younger than the petitioner and the petitioner and the person to be adopted have known each other for at least one year prior to the filing of the petition for adoption. Proceedings in any such case shall conform as near as may be to proceedings for the adoption of a minor child under this chapter except that:

- (a) No consent of either parent shall be required; and
- (b) The consent of the person to be adopted shall be required in all cases.

Any interlocutory or final order issued in any case under this section shall have the same effect as other orders issued under this chapter; and in any such case the word "child" in any other section of this chapter shall be construed to refer to the person whose adoption is petitioned for under this section. The entry of a final order of adoption pursuant to this

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section which incorporates a change of name shall be deemed to meet the requirements of § 8.01-217.

The provisions of this section shall apply to any person who would have been eligible for adoption hereunder prior to July 1, 1972.

(Code 1950, § 63-348.1; 1950, p. 441; 1954, c. 489; 1964, c. 139; 1968, c. 578, § 63.1-222; 1972, c. 823; 1974, c. 337; 1979, c. 339; 1985, cc. 298, 300; 1988, c. 53; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.50; 2001, c. 236; 2002, c. 747; 2006, cc. 825, 848.)

### **§ 63.2-1244. Investigation and report at discretion of circuit court; exception.**

For adoptions under this article, an investigation and report shall not be made unless the circuit court in its discretion so requires. However, if a petition is filed for the adoption of any person eighteen years of age or older under clause (iv) of § 63.2-1243, the circuit court shall require an investigation and report to be made. If an investigation is required, the circuit court shall forward a copy of the petition and all exhibits to the local director and the provisions of § 63.2-1208 shall apply.

(Code 1950, § 63-348.1; 1950, p. 441; 1954, c. 489; 1964, c. 139; 1968, c. 578, § 63.1-222; 1972, c. 823; 1974, c. 337; 1979, c. 339; 1985, cc. 298, 300; 1988, c. 53; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.51; 2002, c. 747.)

### **§ 63.2-1245. Separate order book, file and index of adoption cases; to whom available; permanent retention.**

Each circuit court clerk shall establish and maintain a separate and exclusive order book, file and index of adoption cases, none of which shall be exposed to public view but which shall be made available by such clerk to attorneys of record, social service officials, court officials, and to such other persons as the circuit court shall direct in specific cases by order of the circuit court entered in accordance with § 63.2-1246.

Such records shall be retained permanently in original form or on microfilm. Such microfilm and microphotographic process and equipment shall meet state archival standards and such microfilm shall be available for examination to those persons listed above. The clerk shall further provide security negative microfilm copies of such records for storage in the Archives and Records Division of The Library of Virginia.

(Code 1950, § 63-359.1; 1952, c. 420; 1968, cc. 35, 578, § 63.1-235; 1981, cc. 435, 637; 1994, c. 64; 2000, c. 830, § 63.1-219.52; 2002, c. 747.)

### **§ 63.2-1246. Disposition of reports; disclosure of information as to identity of birth family.**

Upon the entry of a final order of adoption or other final disposition of the matter, the clerk of the circuit court in which it was entered shall forthwith transmit to the

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Commissioner all reports made in connection with the case, and the Commissioner shall preserve such reports and all other collateral reports, information and recommendations in a separate file. Except as provided in subsections C, D and E of § 63.2-1247, nonidentifying information from such adoption file shall not be open to inspection, or be copied, by anyone other than the adopted person, if eighteen years of age or over, or licensed or authorized child-placing agencies providing services to the child or the adoptive parents, except upon the order of a circuit court entered upon good cause shown. However, if the adoptive parents, or either of them, is living, the adopted person shall not be permitted to inspect the home study of the adoptive parents unless the Commissioner first obtains written permission to do so from such adoptive parent or parents.

No identifying information from such adoption file shall be disclosed, open to inspection or made available to be copied except as provided in subsections A, B and E of § 63.2-1247 or upon application of the adopted person, if eighteen years of age or over, to the Commissioner, who shall designate the person or agency that made the investigation to attempt to locate and advise the birth family of the application. The designated person or agency shall report the results of the attempt to locate and advise the birth family to the Commissioner, including the relative effects that disclosure of the identifying information may have on the adopted person, the adoptive parents, and the birth family. The adopted person and the birth family may submit to the Commissioner, and the Commissioner shall consider, written comments stating the anticipated effect that the disclosure of identifying information may have upon any party. Upon a showing of good cause, the Commissioner shall disclose the identifying information. If the Commissioner fails to designate a person or agency to attempt to locate the birth family within thirty days of receipt of the application, or if the Commissioner denies disclosure of the identifying information after receiving the designated person's or agency's report, the adopted person may apply to the circuit court for an order to disclose such information. Such order shall be entered only upon good cause shown after notice to and opportunity for hearing by the applicant for such order and the person or agency that made the investigation. "Good cause" when used in this section shall mean a showing of a compelling and necessitous need for the identifying information.

An eligible adoptee who is a resident of Virginia may apply for the court order provided for herein to (i) the circuit court of the county or city where the adoptee resides or (ii) the circuit court of the county or city where the central office of the Department is located.

An eligible adoptee who is not a resident of Virginia shall apply for such a court order to the circuit court of the county or city where the central office of the Department is located.

If the identity and whereabouts of the adoptive parents and the birth parents are known to the person or agency, the circuit court may require the person or agency to advise the adoptive parents and the birth parents of the pendency of the application for such order. In determining good cause for the disclosure of such information, the circuit court shall consider the relative effects of such action upon the adopted person, the adoptive parents and the birth parents. The adopted person and the birth family may submit to the circuit

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court, and the circuit court shall consider, written comments stating the anticipated effect that the disclosure of identifying information may have upon any party.

When consent of the birth parents is not obtainable, due to the death of the birth parents or mental incapacity of the birth parents, the circuit court may release identifying information to the adult adopted person. In making this decision, the circuit court shall consider the needs and concerns of the adopted person and the birth family if such information is available, the actions the agency took to locate the birth family, the information in the agency's report and the recommendation of the agency.

The Commissioner, person or agency may charge a reasonable fee to cover the costs of processing requests for nonidentifying information.

Upon entry of a final order of adoption or other final disposition of a matter involving the placement of a child by a licensed child-placing agency or a local board or an investigation by the local director of a placement for adoption of a child, the agency or local board shall transmit to the Commissioner all reports and collateral information in connection with the case, which shall be preserved by the Commissioner in accordance with this section.

(Code 1950, § 63-360; 1964, c. 429; 1968, c. 578, § 63.1-236; 1970, c. 672; 1972, c. 823; 1976, c. 366; 1977, c. 556; 1978, cc. 256, 730; 1979, c. 43; 1988, c. 221; 1992, c. 607; 1993, c. 962; 1994, cc. 856, 942; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.53; 2002, c. 747.)

### **§ 63.2-1247. Disclosure to birth family; adoptive parents; medical, etc., information; exchange of information; open records in parental placement adoptions.**

A. Where the adoption is finalized on or after July 1, 1994, and the adopted person is twenty-one years of age or over, the adopted person's birth parents and adult birth siblings may apply to the Commissioner for the disclosure of identifying information from the adoption file. The Commissioner shall designate the person or agency that made the investigation to attempt to locate and advise the adopted person of the application. The designated person or agency shall report the results of the attempt to locate and advise the adopted person to the Commissioner, including the relative effects that disclosure of the identifying information may have on the adopted person, the adoptive parents, and the birth family. The adopted person and the birth family may submit to the Commissioner, and the Commissioner shall consider, written comments stating the anticipated effect that the disclosure of identifying information may have upon any party. Upon a showing of good cause, the Commissioner shall disclose the identifying information. If the Commissioner fails to designate a person or agency to attempt to locate the adopted person within thirty days of receipt of the application, or if the Commissioner denies disclosure of the identifying information after receiving the designated person's or agency's report, the birth parents or adult birth siblings, whoever applied, may apply to the circuit court for an order to disclose such information. Such order shall be entered only upon good cause shown after notice to and opportunity for

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hearing by the applicant for such order and the person or agency that made the investigation. "Good cause" when used in this section shall mean a showing of a compelling and necessitous need for the identifying information.

A birth parent or adult birth sibling who is a resident of Virginia may apply for the court order provided for herein to (i) the circuit court of the county or city where the birth parent or adult birth sibling resides or (ii) the circuit court of the county or city where the central office of the Department is located. A birth parent or adult birth sibling who is not a resident of Virginia shall apply for such a court order to the circuit court of the county or city where the central office of the Department is located.

If the identity and whereabouts of the adopted person and adoptive parents are known to the person or agency, the circuit court may require the person or agency to advise the adopted person and adoptive parents of the pendency of the application for such order. In determining good cause for the disclosure of such information, the circuit court shall consider the relative effects of such action upon the adopted person, the adoptive parents and the birth family. The adopted person and the birth family may submit to the circuit court, and the circuit court shall consider, written comments stating the anticipated effect that the disclosure of identifying information may have upon any party.

When consent of the adopted person is not obtainable, due to the death or mental incapacity of the adopted person, the circuit court may release identifying information to the birth parents or adult birth siblings. In making this decision, the circuit court shall consider the needs and concerns of the birth parents or adult birth siblings and the adoptive family if such information is available, the actions the agency took to locate the adopted person, the information in the agency's report and the recommendation of the agency.

B. Where the adoption is finalized on or after July 1, 1994, and the adopted person is under eighteen years of age, the adoptive parents or other legal custodian of the child may apply to the Commissioner for the disclosure of identifying information about the birth family. The Commissioner shall designate the person or agency that made the investigation to attempt to locate and advise the birth family of the application. The designated person or agency shall report the results of the attempt to locate and advise the birth family to the Commissioner, including the relative effects that disclosure of the identifying information may have on the adopted person, the adoptive parents or other legal custodian, and the birth family. The adoptive parents, legal custodian and birth family may submit to the Commissioner, and the Commissioner shall consider, written comments stating the anticipated effect that the disclosure of identifying information may have upon any party. Upon a showing of good cause, the Commissioner shall disclose the identifying information. If the Commissioner fails to designate a person or agency to attempt to locate the birth family within thirty days of receipt of the application, or if the Commissioner denies disclosure of the identifying information after receiving the designated person's or agency's report, the adoptive parents or legal custodian, whoever applied, may apply to the circuit court for an order to disclose such information. Such order shall be entered only upon good cause shown after notice to and opportunity for

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hearing by the applicant for such order and the person or agency that made the investigation. "Good cause" when used in this section shall mean a showing of a compelling and necessitous need for the identifying information.

An adoptive parent or legal custodian who is a resident of Virginia may apply for the court order provided for herein to (i) the circuit court of the county or city where the adoptive parent or legal custodian resides or (ii) the circuit court of the county or city where the central office of the Department is located. An adoptive parent or legal custodian who is not a resident of Virginia shall apply for such a court order to the circuit court of the county or city where the central office of the Department is located.

If the identity and whereabouts of the birth parents are known to the person or agency, the circuit court may require the person or agency to advise the birth parents of the pendency of the application for such order. In determining good cause for the disclosure of such information, the circuit court shall consider the relative effects of such action upon the adopted person, the adoptive parents or legal custodian and the birth parents. The birth family may submit to the circuit court, and the circuit court shall consider, written comments stating the anticipated effect that the disclosure of identifying information may have upon any party.

When consent of the birth family is not obtainable, due to the death of the birth parents or mental incapacity of the birth parents, the circuit court may release identifying information to the adoptive parents or legal custodian. In making this decision, the circuit court shall consider the needs and concerns of the adoptive parents or legal custodian and the birth family if such information is available, the actions the agency took to locate the birth family, the information in the agency's report and the recommendation of the agency.

C. In any case where a physician or licensed mental health provider submits a written statement, in response to a request from the adult adoptee, adoptive parent, birth parent or adult birth siblings, indicating that it is critical that medical, psychological or genetic information be conveyed, and states clearly the reasons why this is necessary, the agency that made the investigation shall make an attempt to inform the adult adoptee, adoptive parents, birth parents or adult birth siblings, whichever is applicable, of the information. The Commissioner shall provide information from the adoption record to the searching agency if necessary to facilitate the search. Confidentiality of all parties shall be maintained by the agency.

D. In cases where at least one of the adoptive parents and one of the birth parents agree in writing to allow the agency involved in the adoption to exchange nonidentifying information and pictures, the agency may exchange this information with such adoptive parents and birth parents when the whereabouts of the adoptive parents and birth parents is known or readily accessible. Such agreement may be entered into or withdrawn by either party at any time or may be withdrawn by the adult adoptee.

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E. In parental placement adoptions, where the consent to the adoption was executed on or after July 1, 1994, the entire adoption record shall be open to the adoptive parents, the adoptee who is eighteen years of age or older, and a birth parent who executed a written consent to the adoption.

(1994, cc. 856, 942, § 63.1-236.01 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.54; 2002, c. 747.)

### **§ 63.2-1248. Fees for home studies, investigations, visitations and reports.**

Notwithstanding the provisions of § 17.1-275, the circuit court with jurisdiction over any adoption matter, or the person, agency, or child-placing agency that attempts to locate the birth family pursuant to § 63.2-1246 or subsection B of § 63.2-1247, or that attempts to locate the adult adoptee pursuant to subsection A of § 63.2-1247, shall assess a fee against the petitioner, or applicant and, in the case of local departments, shall assess such fee in accordance with regulations and fee schedules established by the Board, for home studies, investigations, visits and reports provided by the appropriate local department, person, or agency pursuant to §§ 20-160, 63.2-1208, 63.2-1212, 63.2-1231, 63.2-1238 or § 63.2-1246. The Board shall adopt regulations and fee schedules, which shall include (i) standards for determining the petitioner's or applicant's ability to pay and (ii) a scale of fees based on the petitioner's or applicant's income and family size and the actual cost of the services provided. The fee charged shall not exceed the actual cost of the service. The fee shall be paid to the appropriate local department, person, or agency and a receipt therefor shall be provided to the circuit court, or to the Commissioner if pursuant to § 63.2-1246 or § 63.2-1247, prior to the acceptance of parental consent, entry of any final order, or release of identifying information by the Commissioner, and no court shall accept parental consent or enter any final order and the Commissioner shall not release any identifying information until proof of payment of such fees has been received.

(1987, c. 5, § 63.1-236.1; 1989, c. 214; 1990, cc. 101, 297; 1991, c. 600; 1992, c. 607; 1995, cc. 772, 826; 2000, c. 830, § 63.1-219.55; 2002, c. 747.)

### **§ 63.2-1249. Establishment of Registry.**

A. A Putative Father Registry is hereby established in the Department of Social Services.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Putative Father Registry Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys collected under § 63.2-1201 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of administration of the Putative Father Registry. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner or his designee.



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(2006, c. 825.)

### **§ 63.2-1250. Registration; notice; form.**

A. Except as otherwise provided in subsection C, a man who desires to be notified of a proceeding for adoption of, or termination of parental rights regarding, a child that he may have fathered shall register with the Putative Father Registry before the birth of the child or within 10 days after the birth. A registrant shall promptly notify the registry of any change in the information registered including but not limited to change of address. The Department shall incorporate all new information received into its records but is not required to obtain current information for incorporation in the registry.

B. A man will not prejudice any rights by failing to register if:

1. A father-child relationship between the man and the child has been established pursuant to § 20-49.1, 20-49.8, or if the man is a presumed father as defined in § 63.2-1202; or

2. The man commences a proceeding to adjudicate his paternity before a petition to accept consent or waive adoption consent is filed in the juvenile and domestic relations district court, or a petition for adoption or a petition for the termination of his parental rights is filed with the court.

C. Failure to register pursuant to subsection A shall waive all rights of a man who is not an acknowledged, presumed, or adjudicated father to withhold consent to an adoption proceeding unless the man was led to believe through the birth mother's fraud that (i) the pregnancy was terminated or the mother miscarried when in fact the baby was born, or (ii) that the child died when in fact the child is alive. Upon the discovery of the fraud the man shall register with the Putative Father Registry within 10 days.

D. The child-placing agency or adoptive parent(s) shall give notice of a proceeding for the adoption of, or termination of parental rights regarding, a child to a registrant who has timely registered pursuant to subsection A. Notice shall be given pursuant to the requirements of this chapter or § 16.1-277.01 for the appropriate adoption proceeding.

E. Any man who has engaged in sexual intercourse with a woman is deemed to be on legal notice that a child may be conceived and the man is entitled to all legal rights and obligations resulting there from. Lack of knowledge of the pregnancy does not excuse failure to timely register except when the identity of such man is reasonably ascertainable. In such event, written notice of the existence of an adoption plan and the availability of registration with the Putative Father Registry shall be provided to the man's last known address. The man shall have no more than 10 days from the date of such mailing to register. The mailing may be done either prior to or after the birth of the child.

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F. The Department shall prepare a form for registering with the agency that shall require (i) the registrant's name, date of birth and social security number; (ii) the registrant's driver's license number and state of issuance; (iii) the registrant's home address, telephone number and employer; (iv) name, date of birth, ethnicity, address and telephone number of the putative mother, if known; (v) state of conception; (vi) place and date of birth of the child, if known; and (vii) name and gender of the child, if known.

G. The form shall also state that (i) timely registration entitles the registrant to notice of a proceeding for adoption of the child or termination of the registrant's parental rights, (ii) registration does not commence a proceeding to establish paternity, (iii) the information disclosed on the form may be used against the registrant to establish paternity, (iv) services to assist in establishing paternity are available to the registrant through the Department, (v) the registrant should also register in another state if conception or birth of the child occurred in another state, (vi) information on registries of other states may be available from the Department, (vii) that the form is signed under penalty of perjury, and (viii) procedures exist to rescind the registration of a claim of paternity.

(2006, c. 825.)

### **§ 63.2-1251. Furnishing information; confidentiality; penalty.**

A. The Department is not required to locate the mother of a child who is the subject of a registration, but the Department shall send a copy of the notice of registration to the mother if an address is provided.

B. Information contained in the registry is confidential and may only be released on request to:

1. A court or a person designated by the court;
2. The mother of the child who is the subject of the registration;
3. An agency authorized by law to receive such information;
4. A licensed child-placing agency;
5. A support enforcement agency;
6. A party or the party's attorney of record in an adoption proceeding, or in a proceeding of termination of parental rights, regarding a child who is the subject of the registration; and
7. A putative father registry in another state.

C. Information contained in the registry shall be exempt from disclosure under the Virginia Freedom of Information Act (§ [2.2-3700](#) et seq.).

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D. An individual who intentionally releases information from the registry to an individual or agency not authorized to receive the information in this section is guilty of a Class 4 misdemeanor.

(2006, c. 825.)

### **§ 63.2-1252. Search of registry.**

A. If no father-child relationship has been established pursuant to § 20-49.1, a petitioner for adoption shall obtain from the Department a certificate that a search of the Putative Father Registry was performed. If the conception or birth of the child occurred in another state, a petitioner for adoption shall obtain a certificate from that state indicating that a search of the putative father registry was performed, if that state has a putative father registry.

B. The Department shall furnish to the requester a certificate of search of the registry upon the request of an individual, court, or agency listed in § 63.2-1253. Any such certificate shall be signed on behalf of the Department and state that a search has been made of the registry and a registration containing the information required to identify the registrant has been found and is attached to the certificate of search or has not been found. Within four business days from the receipt of the request, the Department shall mail the certificate to the requestor by United States mail. Upon request of the requestor and payment of any additional costs, the Department shall have the certificate delivered to the requestor by overnight mail, in person, by messenger, by facsimile or other electronic communication. The Department's certificate or an appropriate certificate from another state shall be sufficient proof the registry was searched.

C. A petitioner shall file the certificate of search with the court before a proceeding for adoption of, or termination of parental rights regarding, a child may be concluded.

D. A certificate of search of the Putative Father Registry is admissible in a proceeding for adoption of, or termination of parental rights regarding, a child and, if relevant, in other legal proceedings.

(2006, c. 825.)

### **§ 63.2-1253. Duty to publicize registry.**

A. The Department shall produce and distribute a pamphlet or other publication informing the public about the Putative Father Registry including (i) the procedures for voluntary acknowledgement of paternity, (ii) the consequences of acknowledgement and failure to acknowledge paternity pursuant to § 20-49.1, (iii) a description of the Putative Father Registry including to whom and under what circumstances it applies, (iv) the time limits and responsibilities for filing, (v) paternal rights and associated responsibilities, and (vi) other appropriate provisions of this article.

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B. Such pamphlet or publication shall include a detachable form that meets the requirements of subsection F of § [63.2-1252](#), is suitable for United States mail, and is addressed to the Putative Father Registry. Such pamphlet or publication shall be made available for distribution at all offices of the Department of Health and all local departments of social services. The Department shall also provide such pamphlets or publications to hospitals, libraries, medical clinics, schools, universities, and other providers of child-related services upon request.

C. The Department shall provide information to the public at large by way of general public service announcements, or other ways to deliver information to the public about the Putative Father Registry and its services.

(2006, c. 825.)